



STATE OF MISSOURI  
DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS &  
PROFESSIONAL REGISTRATION

IN THE MATTER OF:

David N. Johnson

Applicant.

Serve at:

9863A Diamond Drive  
St. Louis MO 63137

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Case No. 06A000677

**REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE**

On December 5, 2006, Kathryn Turner, as senior counsel for the Investigations Section of the Division of Consumer Affairs, submitted a petition to the Director alleging cause for refusing to issue the insurance producer license of David N. Johnson ("Applicant"). After reviewing the petition, and the investigative report, the Director issues the following findings of fact, conclusions of law and summary order:

**FINDINGS OF FACT**

1. David N. Johnson ("Applicant") is a Missouri resident with an address of 9863A Diamond Drive, St. Louis, Missouri 63137.
2. On October 20, 2006, the Department received a Uniform Application for Individual Insurance Producer License ("Application"), filed by the Applicant.
3. On November 18, 1993, Applicant was found guilty and was convicted of the felony of Second Degree Criminal Sexual Conduct in the 6<sup>th</sup> Judicial Circuit, Oakland County, Michigan, involving a male child under the age of thirteen.
4. Sentencing was delayed for mental health evaluation until April 7, 1994, at which time Applicant was sentenced to thirty-six months probation and continuing mental health counseling. Applicant was discharged from probation on February 7, 1997.
5. The crime to which Applicant no contest involves sexual contact with a child.

6. In his explanation of the circumstances surrounding the charge, the Appellant claims he did not commit the crime, but was coerced by his attorney to plead no contest.
7. This order is in the public interest.

### CONCLUSIONS OF LAW

8. Section 375.141.1 RSMo Cum Supp 2005 provides, in part:

The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

(6) Having been convicted of a felony or crime involving moral turpitude.
9. "May" means an option, not a mandate. *S.V.J. ex rel. Blank v. Voshage*, 860 S.W. 2d 802, 804 (Mo.App.E.D. 1993).
10. Applicant has been convicted of the felony of Second Degree Criminal Sexual Conduct, a ground for refusal under Section 375.141.1 RSMo Cum Supp 2005.
11. The primary purpose of professional licensing is to protect the public. *Lane v. State Comm. of Psychologists*, 954 S.W.2d 23, 25 (Mo.App.,E.D. 1997). "[T]he license granted places the seal of the state's approval upon the licen[see.]" *State ex rel. Linetine v. State Bd. Of Health*, 65 S.W.2d 943, 950 (Mo. 1993).
12. The nature of criminal sexual conduct relates to the safety of the public. Appellant claims that he did not commit the crime and was coerced into pleading no contest.
13. If the Appellant did not commit the crime, then his plea of no contest raises concerns of his competence and trustworthiness in the business of insurance. These concerns would not be alleviated by the personal circumstances that led to the voluntary filing of bankruptcy in November 2005 or the subsequent discharge of debt. Personal trustworthiness and financial competence are central qualities for a licensed insurance producer. If the Appellant did not commit the crime, then the entry of the plea of guilty and subsequent history reveal significant risk to consumers.
14. If the Appellant pled no contest, because, in fact, he was guilty of criminal sexual assault, his history suggests significant safety risk to consumers.

15. The Director is not required to retry the case of criminal sexual conduct. In this matter and in the discretion of the Director, the risk of issuing a producer license is substantial.
16. This order is in the public interest.

**ORDER**

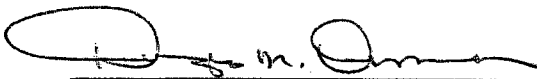
IT IS THEREFORE ORDERED that the issuance of the insurance producer license of Applicant David N. Johnson is hereby summarily REFUSED.

SO ORDERED.

WITNESS MY HAND THIS 20<sup>th</sup> DAY OF December, 2006.



W. DALE FINKE  
DIRECTOR



DOUGLAS M. OMMEN  
DEPUTY DIRECTOR  
GENERAL COUNSEL

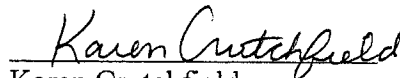
**NOTICE**

**TO: Applicant and any unnamed persons aggrieved by this Order:**

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri within thirty (30) days after the mailing of this notice pursuant to Section 621.120 RSMo.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>d</sup> day of December, 2006, a copy of the foregoing notice, order and petition was served upon the Applicant in this matter by certified mail.



Karen Crutchfield  
Senior Office Support Staff